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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,827	08/04/2003	James Buch	THREE-134A	5268
34284 7590 02/05/2007 Hani Z. Sayed, Esq. c/o Rutan & Tucker, LLP 611 ANTON BLVD SUITE 1400 COSTA MESA, CA 92626			EXAMINER ALLEN, WILLIAM J	
			ART UNIT	PAPER NUMBER
			3625	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/05/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/633,827	BUCH ET AL.	
	Examiner	Art Unit	
	William J. Allen	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Prosecution History Summary

Claims 1-44 are pending and rejected as set forth below.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/8/2006 has been entered.

Claim Objections

Claims 14 and 39 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claims 14 and 39 recite using a touch screen as an input means, which has been incorporated in independent claims 1 and 22.

Drawings

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application. See Office Action Mailed 8/9/2006.

Response to Arguments

Applicant's arguments filed 11/8/2006 have been fully considered but they are not persuasive. Applicant contends that Masters in view of Blanchard fail to teach the present invention because . The Examiner disagrees for the following:

Masters teaches a system for entering requirements for and selecting interior design treatments (including window treatments) (see at least: abstract, 0001). Furthermore, Masters allows the user to be presented with compatible design treatments, to be shown compatible groups to be used in the interior design of the home as well as allow the homemaker to view particular items with a compatible interior design treatment and have the treatment overlaid on the item and displayed, thereby allowing the user to view and 'visualize' how the treatment may look in the home (see at least: 0040-0041). Additionally, as noted in the previous action, Masters teaches the use of **color pallets** and the ability to select **color schemes** for interior design products (see at least: 0028, 0036). The purpose of the color palette in Masters is to allow users to view color schemes according to their wishes (see at least: 0028). The lacking recitation is *the color user interface comprising color variation strips based on colors displayed in the color wheel*. In the same area, Blanchard's invention teaches calculating **harmonizing color schemes** to allow users to fit their specific needs and "determine harmonious decorating colors" (see at least: abstract, 0003, 0079). Even further, Blanchard states that the system is advantageous in that it provides harmonizing color schemes and eliminates color mismatches (see at least: 0015). Thereby, there is a strong suggestion in Masters to motivate one skilled in the art to combine Masters in view of Blanchard in order to allow users to not only select a color scheme

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but calculate harmonious decorating colors according to their preferences (see at least:

Blanchard, abstract, 0003, 0079).

More specifically, applicant has amended the claims to recite “wherein the selected room settings provide a user visualization and contemplation of different types of window coverings”; however, this aspect is addressed in the above arguments as well as the previous office action. Furthermore, Applicant contends that Masters in view of Blanchard are not “specific to this type of interior design”, despite a “passing reference” to window treatments (see at least: Page 9, Remarks). The Examiner notes that the features Applicant is relying upon (i.e. “specific” to window treatments) does not appear in the claims, and further notes that the claims simply “provide a user visualization and contemplation of different types of window coverings”. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant's arguments with respect to claims 6-13, 15, 16, 31-38, and 40-41 have been considered but they are not persuasive. The Examiner notes that these arguments are not persuasive for at least the reasons above with respect to claims 1 and 22. Additionally, the Examiner notes that the previous action stated that Masters further “teaches providing an expert system for selecting design treatments for rooms in a user’s home (see at least: abstract)” and merely fails to expressly teach where the room setting being manipulated is *a photograph of the user’s room setting*. Gordon clearly states that the invention “relates to automation of construction and **decoration projects** and, more particularly, to improvement therefor” (see at

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least: abstract, 0003). Gordon further provides incentive motivating one of ordinary skill in the art to combine the two references as cited in the previous action.

Applicant's arguments with respect to claims 5, 17-18, and 30 have been considered but they are not persuasive. As noted in the previous action, Masters teaches all of the above and further teaches creating personalized room settings (see at least: Fig. 1-2). The user is able to select a room or rooms and search for interior design treatment for those rooms (see at least: 0026). Masters simply does not disclose that the selected rooms is a pre-stored glamour photograph. Lambertsen teaches selecting pre-set images (i.e. *pre-stored glamour photograph*) for manipulation (see at least: 0015), which is analogous to the selection of a room or rooms for manipulation by further selection of interior design treatments. By providing pre-set images that do not require features to be outlined by the user, the user is thereby saved time (see at least: Lambertsen, 0015).

Applicant's arguments with respect to claims 14 and 39 have been considered but they are moot in view of new ground(s) of rejection.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1-4, 14, 19-29, 39, 42, 43 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masters (US 2002/0006602) in view Blanchard et al. (US 2002/0089513) and Olefson (US 20010025261).**

Regarding claims 1 and 14, Masters teaches:

providing a room setting user interface comprising a plurality of available room settings

(see at least: 0027, Fig. 2);

obtaining a selected room setting from the user via the room setting user interface wherein the selected room settings provide a user visualization and contemplation of different types of window coverings (see at least: 0001-0002, 0027 0031, 0033, Fig. 2);

providing a product user interface comprising a plurality of available products (see at least: 0007-0009);

obtaining a selected product from the user via the product user interface (see at least: 0007-0009);

providing a color user interface comprising a plurality of available colors for the selected product (see at least: 0002, 0006, 0028, Fig. 2);

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obtaining a selected color from the user via the color user interface (see at least: Fig. 4);
and
displaying a visualization of the selected product in the selected color in the selected room setting (see at least: Fig. 4, element 113; Fig. 1, element 196).

Though Masters teaches all of the above and further teaches use of a color pallet, Masters does not expressly teach where the selected color(s) on the color pallet *include variations of the selected color*. Blanchard teaches a system for use in the decorating/architectural decorating field for calculating harmonized color schemes. Blanchard also teaches *wherein the plurality of colors include variations of the selected color* (see at least: Fig. 1, 0007, 0031, 0039, 0049, 0067). The Examiner notes that yellow, yellow-orange, yellow-green represent different shades/variations of the color yellow. Different shades of red, blue, green, brown, etc. are also provided. It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Masters to have included *wherein the plurality of colors include variations of the selected color* as taught by Blanchard in order to provide a user with harmonizing color schemes according to their preferences and eliminate color mismatches (see at least: Blanchard, abstract, 0015).

Additionally, though Masters teaches all of the above and further teach a user terminal with a display to connect to a homeowner to the interior design network (see at least: Masters, 0024), Masters does not expressly teach a *touch screen* interface for user input. In the field of interior design, Olefson teaches a system allowing a college student to tour a dormitory building (see at

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least: abstract). Olefson further provides an interior design feature showing a user room and furniture dimensions, and allows the user to design a layout for the room (see at least: 0004, 0032) while using a *touch screen* interface (see at least: 0022). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Masters to have included a *touch screen interface* as taught by Olefson in order to allow a user to provide input by simply touching the display screen in specific locations, thereby providing a simplified means of interacting with the terminal.

Regarding claim 2, Masters teaches *wherein the color user interface comprises a color wheel displaying the selected color and a plurality of colors related to the selected color* (see at least: 0006, 0028, Fig. 2). The Examiner notes that the “color palette” of Masters constitutes a *color wheel*.

Regarding claim 3, Masters teaches all of the above and further teaches a color user interface and color pallet (see at least: Fig. 2, 0002, 0006, 0028). Masters, however, does not teach *the color user interface comprising color variation strips based on colors displayed in the color wheel*. Blanchard teaches a *color user interface comprising color variation strips based on colors displayed in the color wheel* (see at least: Fig. 1, 0083). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Masters to have included *the color user interface comprising color variation strips based on colors displayed in the color wheel* as taught by Blanchard in order to provide a means for calculating

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harmonizing colors/color schemes based on a reference color (see at least: Blanchard, abstract, 0015).

Regarding claim 4, Masters teaches *wherein the color user interface highlights colors that have matching products* (see at least: 0006, 0028, Fig. 2). The Examiner notes that by displaying the colors in the color palette/selectable patterns that have available products the system is highlighting those colors.

Regarding claim 19, Masters teaches *wherein the computer-implemented method is implemented on a server that can be remotely accessed by the user over a network* (see at least: 0024).

Regarding claim 20, Masters teaches *wherein the network is an Internet* (see at least: Fig. 7, element 16).

Regarding claim 21, Masters teaches *the method further comprising ordering the selected product in the selected color* (see at least: 0041).

Regarding claims 22, 27-29, 39, 42, 43 and 44, the limitations set forth in claims 22, 27, 29, 42, 43, and 44 closely parallel the limitations of claims 1-3, 14, and 19-21. Claims 22, 27-29, and 42-44 are thereby rejected under the same rationale.

Regarding claim 23, Masters teaches *wherein the home décor product is a window covering* (see at least: 0001, 0002, 0031).

Regarding claim 24, Masters teaches *wherein the home décor product is an area rug* (see at least: 0001, 0002, 0028). The Examiner notes “floor coverings” constitutes an area rug.

Regarding claim 25, Masters teaches *wherein the home décor product is a carpet* (see at least: 0001, 0002, 0028). The Examiner notes “floor coverings” constitutes carpet.

Regarding claim 26, Masters in view of Blanchard teaches *wherein the home décor product is a window covering, an area rug, and a carpet* but does not expressly show where *the home décor product is a throw pillow*. These differences, however, are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The method steps would be performed the in the same manner regardless of the type of home décor product, be it window coverings, carpet, area rugs, drapes, blinds, curtains, furniture, etc.. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include throw pillows as home décor products because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

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3. **Claims 6-13, 15-16, 31-38, and 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masters in view of Blanchard in view of Olefson, as applied to claims 1-4, 19-29, 42, 43 and 44, and in further view of Gordon (US 20020099725).**

Regarding claim 6, Masters in view of Blanchard in view of Olefson teaches all of the above and teaches providing an expert system for selecting design treatments for rooms in a user's home (see at least: Masters, abstract). Masters in view of Blanchard in view of Olefson, however, does not expressly teach where the room setting being manipulated is *a photograph of the user's room setting*. Gordon teaches where the room settings being manipulated are *photographs of the user's room setting* (see at least: 0031, Fig. 3). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Masters in view of Blanchard in view of Olefson to have included where the room settings being manipulated are *photographs of the user's room setting* as taught by Gordon in order to allow a customer to easily view the selection that he or she has made and how it would look in the room on a computer before purchasing the selection (see at least: Gordon, 0031).

Regarding claim 7, Masters further teaches *wherein the user indicates a window location in the photographs using a pointing device* (see at least: 0027).

Regarding claim 8, Masters further teaches *wherein the user indicates a plurality of window locations in the photograph using a pointing device* (see at least: 0027).

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Regarding claim 9, Masters further teaches *wherein the displaying the visualization of the selected product in the selected color in the selected room setting comprises displaying different selected products in different window locations* (see at least: 0027-0028). The Examiner notes that the each treatment chosen (window, door, wall, etc.) are displayed in the locations chosen for each.

Regarding claim 10, Masters further teaches wherein the displaying the visualization of the selected product in the selected color in the selected room setting comprises displaying different colors of the selected products in different window locations (see at least: 0027-0028). The Examiner notes that the products are displayed in the colors selected by the user in their respective chosen locations.

Regarding claim 11, Masters in view of Blanchard in view of Olefson teaches all of the above and teaches providing an expert system for selecting design treatments for rooms in a user's home (see at least: Masters, abstract). Masters, however, does not expressly teach *wherein the photograph of the user's room setting is a digital photograph*. Gordon teaches *wherein the photograph of the user's room setting is a digital photograph* (see at least: 0031, Fig. 3). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Masters in view of Blanchard in view of Olefson to have included *wherein the photograph of the user's room setting is a digital photograph* as taught by Gordon in order to allow a customer to easily view the selection that he or she has made and how it would look in the room on a computer before purchasing the selection (see at least: Gordon, 0031).

Regarding claim 12, Masters in view of Blanchard in view of Olefson teaches all of the above and teaches providing an expert system for selecting design treatments for rooms in a user's home (see at least: Masters, abstract). Masters, however, does not expressly teach *wherein the photograph of the user's room setting is a digital photograph*. Gordon teaches *wherein the digital photograph is stored on a digital camera and accessed from the digital camera* (see at least: 0031, Fig. 3). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Masters in view of Blanchard in view of Olefson to have included *wherein the digital photograph is stored on a digital camera and accessed from the digital camera* as taught by Gordon in order to allow a customer to easily view the selection that he or she has made and how it would look in the room on a computer before purchasing the selection (see at least: Gordon, 0031).

Regarding claim 13, Masters in view of Blanchard in view of Olefson teaches all of the above and teaches providing an expert system for selecting design treatments for rooms in a user's home (see at least: Masters, abstract). Masters, however, does not expressly teach *wherein the digital photograph is stored on a disk accessible by the computer on which the method is implemented*. Gordon teaches *wherein the digital photograph is stored on a disk accessible by the computer on which the method is implemented* (see at least: 0031, Fig. 3). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Masters in view of Blanchard in view of Olefson to have included *wherein the digital photograph is stored on a disk accessible by the computer on which the method is*

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implemented as taught by Gordon in order to allow a customer to easily view the selection that he or she has made and how it would look in the room on a computer before purchasing the selection (see at least: Gordon, 0031).

Regarding claims 15 and 16, Masters in view of Blanchard in view of Olefson teaches all of the above and further teaches a stand alone/local terminal for carrying out the above method (see at least: Masters, 0024). Masters in view of Blanchard in view of Olefson, however, does not expressly show *wherein the method is implemented on a portable computer and wherein the portable computer is a laptop computer*. Gordon teaches *wherein the method is implemented on a portable computer and wherein the portable computer is a laptop computer* (see at least: Fig. 3). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Masters to have included *wherein the method is implemented on a portable computer and wherein the portable computer is a laptop computer* as taught by Gordon in order to allow a customer to easily view the selection that he or she has made and how it would look in the room on a portable computer before purchasing the selection (see at least: Gordon, 0031).

Regarding claim 31-38, the limitations set forth in claims 31-38 closely parallel the limitations of claims 6-13. Claims 31-38 are thereby rejected under the same rationale.

Regarding claim 40-41, the limitations set forth in claims 40-41 closely parallel the limitations of claims 15-16. Claims 40-41 are thereby rejected under the same rationale.

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4. **Claims 5, 17-18, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masters in view of Blanchard in view of Olefson, as applied to claims 1-4, 19-29, 42, 43 and 44, and in further view of Lambertsen (US 20020024528).**

Regarding claims 5 and 30, Masters in view of Blanchard in view of Olefson teaches all of the above and further teaches creating personalized room settings (see at least: Masters, Fig. 1-2). Masters in view of Blanchard in view of Olefson, however, does not teach where a selected room setting *is a pre-stored glamour photograph*. Lambertsen teaches selecting pre-set images (i.e. *pre-stored glamour photograph*) for manipulation (see at least: 0015). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Masters in view of Blanchard in view of Olefson to have included *pre-stored glamour photographs* as taught by Lambertsen in order to provide pre-set images that do not require features to be outlined by the user (see at least: Lambertsen, 0015).

Regarding claims 17-18, Masters in view of Blanchard in view of Olefson teaches all of the above and further teaches selecting and placing objects in a room setting (see at least: Masters, Fig. 1-4). Masters in view of Blanchard in view of Olefson, however, does not teach *wherein the selected product is translucent and wherein the level of transparency is adjustable by the user*. Lambertsen teaches *wherein the selected product is translucent and wherein the level of transparency is adjustable by the user* (see at least: 0042). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Masters in view of Blanchard in view of Olefson to have included *wherein the selected product is*

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translucent and wherein the level of transparency is adjustable by the user as taught by

Lambertsen in order to provide an easy means for creating a digitally enhanced image from an uploaded photograph while allowing the user to adjust opacity/transparency to suit their viewing needs (see at last: Lambertsen, abstract, 0042).

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Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US 20010034668 discloses virtual picture hanging via the internet
- US 5503209 discloses a window valance kit
- US 7016882 discloses a method and apparatus for evolutionary design including interior design

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Allen whose telephone number is (571) 272-1443. The examiner can normally be reached on 8:00 AM to 5:30 PM.

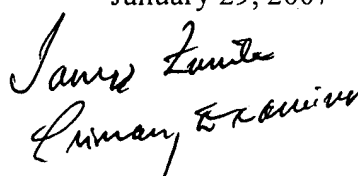
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff A. Smith can be reached on (571) 272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

William J. Allen, Patent Examiner



January 29, 2007



James L. Smith
Primary Examiner